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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/062,680	02/01/2002	Paul R. Jarko	1992-A	2184

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 06/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/062,680

Applicant(s)

Jarko et al.

Examiner

Vanaman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on _____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 16-27 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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Information Disclosure Statement

1. The information disclosure statement filed Feb. 1, 2002 fails to comply with 37 CFR 1.98(a)(1), which requires a list of all patents, publications, or other information submitted for consideration by the Office; and fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each U.S. and foreign patent; each publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.
2. A reference to a listing of documents in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless documents have been cited by the examiner on form PTO-892, they have not been considered. Furthermore, while applicant's information disclosure statement refers to a discussion of the Prior Art in the specification, the specification contains no document citations.

Claim Rejections - 35 U.S.C. 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

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(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claim 22 is rejected under 35 U.S.C. 102(b) as being by Hoffman (DE 317,031).

Hoffman teaches a combination of a plurality of rectangular containers (d), and a dolly (a) having wheels, and a plurality of shelves (b- spaced apart, note figure 1), and lids (e) for covering the tops of all containers, thus covering an uppermost container as well as all other containers.

5. Claim 22 is rejected under 35 U.S.C. 102(e) as being by Perelli et al (US 6,497,423, filed 9/1998). Perelli et al. teach a cart in combination with plural rectangular containers (188, 30), including an upstanding frame (18, 20, 22) which forms an inverted U shape (legs 18, 20, bridging portion 26), plural wheels (14a-d), plural shelves (24, 28) for supporting the containers, and a lid (32) pivotally connected to the cart, for covering the uppermost container (30), the shelves and containers made from a molded plastic material.

Claim Rejections - 35 U.S.C. 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1, 7, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero (US 4,037,851) in view of Roman (US 5,707,030). Romero teaches a cart (11) including a U-shaped frame (21, 22, 23) made from open section (21 and 22) and closed section (23) metal tubes, with front and rear sides, a plurality of wheels (13), which may accommodate a plurality of shelves (14, note col. 4, lines 62-63), vertically spaced along the frame, projecting outwardly in a cantilever manner, the shelves having upwardly extending front and rear side walls (figure 1)

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being formed with a plurality of apertures between members thereof which allow drainage therethrough, the shelves having mounting brackets (51, 52), there being provided fasteners (27) to secure the brackets to the frame (through 46), the sides (lateral portions of 49) including curved portions (see figure 5, also note element 51) which merge with the rear side wall, the frame portions further having apertures (32, 33) for mounting the shelf elements. The reference of Romero fails to teach the provision of a dome-shaped lid which can cover a container placed on the uppermost shelf. Roman teaches a cart having a frame to which is pivotally attached a dome-shaped cover (23) which may selectively overlie an open shelf (10, also 15). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Romero with a pivotable dome-shaped lid attached to the frame as taught by Roman for the purpose of protecting the contents of a container placed on an uppermost shelf of the cart.

8. Claims 2-6 and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero as modified by Roman (above) and further in view of Barnes (US 5,230,282). The references of Romero and Roman are discussed above and fail to teach a basket on the rear frame side, the basket being made from a U-shaped metal mesh screen, including first and second sides, a curved bottom, the second side being biased towards the first side by the bottom, with an outwardly curved configuration, including a slot which is configured to receive a cord, a cord holder, and a cutting mechanism. Barnes teaches a basket shaped shelf having first (16) and second (23, 25), outwardly projecting sides, a bottom (e.g., 17) which may be U-shaped (col. 3, lines 39-40), the U-shape allowing the second wall to extend in an outwardly curved configuration, the basket further having slots (e.g., between 23, 25) which allows the passage of cord (34- note also figures 4, 5), a cord container (30) which may be provided with a cutter (col. 4, line 43), wherein both the cord container and the basket itself (see col. 4, line 48 and col. 4, lines 2-5) may be made from a mesh material. An outward force on the upper end of the second wall would result in a restoring force being generated which would tend to bias the second side

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towards the first side to the breadth claimed. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Romero as modified by Roman with a basket and cord dispenser with cutter as taught by Barnes for the purpose of providing a facility to allow small items to be bundled up for disposal.

As regards claims 19 and 20, while the references of Romero as modified by Roman and Barnes fail to specifically teach a particular location for the cord holder, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the holder in an upper most location with respect to the other containers and basket, and as such, to thusly locate it on the lid, so as to promote easy access to the cord holder and cutter when bundling items.

9. Claims 8, 9, and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Romero as modified by Roman (above) and further in view of Manss (GB 2,025,860). The references of Romero and Roman are discussed above and fail to teach the shelves as including upwardly extending sides at lateral portions thereof. Manss teaches a cart having a cantilevered shelf (11) which is provided with upwardly extending front, lateral and rear sides. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shelf taught by Romero as modified by Roman with upstanding side walls as well as front and rear walls, for the purpose of preventing items stored on the shelves from being unintentionally displaced from the cart off the sides.

As regards claims 12 and 13, the references of Romero, Roman and Manss fail to teach the shelves as being molded from a plastic, in particular polypropylene. The use of plastics and more particularly polypropylene is well known in the manufacturing arts, for the provision of elements having a high strength to weight ratio, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shelf taught by Romero as modified by Roman and Manss from a polypropylene for the purpose of lightening the weight of the cart without compromising its structural integrity.

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10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romero as modified by Roman, Manss and McGinlay (GB 2,319,503). The references of Romero, Roman and Manss are discussed above and fail to teach the shelves as including a projection extending from the rear portion for positioning a container. McGinlay teaches a cart having a shelf (2, 6) which is provided with a rear projection structure (proximate 9, opposite from the front face of the shelf at handle locations 11) shaped to accommodate a specific container (10). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the shelf taught by Romero as modified by Roman and Manss with a particular projection structure as taught by McGinlay, for the purpose of allowing a specific-shaped container to be registered on the shelf.

11. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romero as modified by Roman and further in view of Streit et al. (US 4,319,762). The references of Romero and Roman are discussed above and fail to teach the lid as having a latch which engages a container. Streit et al. teach a cart having container portions (2) wherein a lid (20) is provided with a latch (25, 26) which engages the top container portion (at 13). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the lid of the cart of Romero as modified by Roman with a latch as taught by Streit et al. for the purpose of insuring the lid remains closed when a container is positioned thereunder.

12. Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perelli et al. in view of Hayes (US 4,821,903). The reference of Perelli et al. is discussed above and fails to teach the frame portion as being formed from a tubular metal member. Hayes teaches a combination cart and bin arrangement, wherein plastic bins (35) are supported on a cart (10) having an inverted U-shaped frame (11, 12) made from a tubular metal element. It would have been obvious to one of ordinary skill in the art at the time of the invention to make the frame portion of the cart of Perelli et al. from a tubular metal member as taught by Hayes, for the purpose of increasing its strength.

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13. Claims 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perelli et al. in view of Hayes and Barnes. The references of Perelli et al. and Hayes are discussed above and fail to teach a downward extending receptacle formed from a metal mesh screen, a cord holder, and a cutting mechanism. Barnes teaches a basket-shaped downwardly extending receptacle (10) which may be used with a cord container (30) which may be provided with a cutter (col. 4, line 43), wherein both the cord container and the basket itself (see col. 4, line 48 and col. 4, lines 2-5) may be made from a mesh material. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the cart of Perelli et al. as modified by Hayes with a receptacle as taught by Barnes for the purpose of allowing small items to be bundled up for disposal. As regards claim 27, the reference of Barnes fails to teach the provision of the cord holder and cutter in a lid, it would have been obvious to one of ordinary skill in the art at the time of the invention to locate the holder in an upper most location with respect to the other containers and basket, and as such, to thusly locate it on the lid, so as to promote easy access to the cord holder and cutter when bundling items.

Allowable Subject Matter

14. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Williams (US 2,673,671), Sernovitz (US 3,837,667), McArthur (US 5,464,104), Rigo (US 5,820,143), Dooley et al. (US 6,352,225), Piwonka (EP 517,166), Baumgartel et al. (EP 955,224) and Shyshka et al. (CA 2,271,906) teach cart structures of pertinence.

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16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is (703) 308-0424. Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 308-1113.

As of May 1, 2003, any response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

or faxed to :

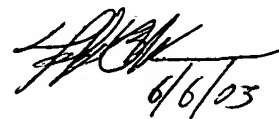
(703) 305-3597 or 305-7687 (for formal communications intended for entry;
informal or draft communications may be faxed to the same number but should be
clearly labeled "UNOFFICIAL" or "DRAFT")

The Office has also established electronic fax servers for Technology Center 3600 as
follows:

703-872-9326 (Official communications)
703-872-9327 (Official After Final communications)
703-872-9325 (Customer Service)

F. VANAMAN
Primary Examiner
Art Unit 3618

F. Vanaman
June 6, 2003



6/6/03